## UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD REGION 19

MACHINISTS DISTRICT LODGE 160, LOCAL LODGE 289

and -

Case 19-CD-502

SSA MARINE

and

INTERNATIONAL LONGSHORE AND WAREHOUSE UNION

#### **NOTICE OF 10(k) HEARING**

PLEASE TAKE NOTICE that on the 30th day of June, 2009, at 10:00 a.m., at the James C. Sand Hearing Room, 29<sup>th</sup> Floor, Jackson Federal Building, 915 Second Avenue, Seattle, Washington, pursuant to Section 10(k) of the National Labor Relations Act, a hearing will be conducted before a Hearing Officer of the National Labor Relations Board upon the dispute alleged in the attached Charge that issued on the 10<sup>th</sup> day of June, 2009. At said hearing, the parties will have the right to appear in person or otherwise and give testimony.

The dispute concerns the assignment of the following work tasks:

The maintenance and repair work on cruise-ship related equipment at Terminal 91, Seattle, Washington.

IN WITNESS WHEREOF, the undersigned Regional Director, on

behalf of the Board, has caused this Notice of Hearing to be signed at Seattle, Washington, on this 16<sup>th</sup> day of June, 2009.

Richard L. Ahearn, Regional Director National Labor Relations Board, Region 19 2948 Jackson Federal Building

915 Second Avenue Seattle, Washington 98174

**Attachments** 



## United States Government NATIONAL LABOR RELATIONS BOARD

Region 19 2948 Jackson Federal Building 915 Second Avenue Seattle, Washington 98174-1078 Telephone: (206) 220-6300 Toll Free: 1-866-667-6572

Facsimile: (206) 220-6305

Agency Web Site: http://www.nlrb.gov

June 10, 2009

MACHINISTS DISTRICT LODGE 160, LOCAL LODGE 289

and

Case 19-CD-502

**SSA MARINE** 

#### **NOTICE OF CHARGE FILED**

PLEASE TAKE NOTICE that the attached Charge has been filed alleging that Machinists District Lodge 160, Local Lodge 289 has violated Section 8(b)(4)(D) of the National Labor Relations Act. The charge will be investigated by the Regional Office. If the charge is found meritorious, the National Labor Relations Board will hear and determine the work jurisdiction dispute involved in the charge pursuant to Section 10(k) of the Act unless, within 10 days of the receipt of this Notice, the parties to the dispute submit to the Regional Office satisfactory evidence that they have adjusted the dispute or have agreed to a voluntary method of adjustment.

**FILING DOCUMENTS WITH REGIONAL OFFICES**: The Agency is moving toward a fully electronic records system. To facilitate this important initiative, the Agency strongly urges all parties to submit documents and other materials (except unfair labor practice charges and representation petitions) to Regional Offices through the Agency's E-Filing system on its website: <a href="http://www.nlrb.gov">http://www.nlrb.gov</a>. (See Attachment to this letter for instructions.) Of course, the Agency will continue to accept timely filed paper documents.

IN WITNESS WHEREOF, the undersigned Regional Director, on behalf of the Board, has caused this Notice of Charge Filed to be signed at Seattle, Washington on this 10th day of June 2009.

Sincerely,

Richard L. Ahearn Regional Director

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**Enclosures** 

Case assigned to: John H. Fawley Telephone No.: (206) 220-6326 Email: John.Fawley@nlrb.gov

INTERNET FORM NLRB-508 (2-08)

Address

#### UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD

CHARGE AGAINST LABOR ORGANIZATION

DO NOT WRITE IN THIS SPACE	
19-CD-502	6/10/09

**OR ITS AGENTS** INSTRUCTIONS: File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring. 1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT b. Union Representative to contact a. Name International Association of Machinists (IAM), District Lodge 160, Local Lodge **Don Hursey** d. Tel. No. e. Cell No. c. Address (Street, city, state, and ZIP code) 206-762-7990 9315 15th Place South o. e-Mail f. Fax No. Seattle, WA 98108 h. The above-named organization(s) or its agents has (have) engaged in and is (are) engaging in unfair labor practices within the meaning of section 8(b), of the National Labor Relations Act, and these unfair labor practices within the meaning of section 8(b), of the National Labor Relations Act, and these unfair labor practices. of the National Labor Relations Act, and these unfair labor practices are unfair practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act. 2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) The above-named labor organization, by and through its agents, has threatened to engage in proscribed activity (economic action, including picketing) if the Employer, SSA Marine, does not reassign mechanics' work at Pier 91 Smith Cove Terminal, Seattle, Washington from employees represented by the International Longshore & Warehouse Union (ILWU) to employees represented by it. The instant jurisdictional dispute involves the assignment of work to employees represented by one of two competing Unions, who have both made a claim for the same work and the Employer requests that the Region hold a 10(k) Hearing as soon as possible to evaluate the merits of the competing claims on the traditional Board factors. b. Cell No. 4a. Tel. No. 3. Name of Employer 800-422-3505 d. e-Mail SSA Marine c. Fax No. 6. Employer representative to contact 5. Location of plant involved (street, city, state and ZIP code) Jim McMullen, Attorney Pier 91, 2001 West Garfield Street, Seattle, WA 98119 9. Number of workers employed 8. Identify principal product or service 7. Type of establishment (factory, mine, wholesaler, etc.) Cargo transportation & handling **Port Terminal Services** b. Cell No. 11a. Tel. No. 10. Full name of party filing charge 619-813-1934 619-230-7746 James J. McMullen, Jr. d e-Mail c. Fax No. Gordon & Rees LLP 619-696-7124 11. Address of party filing charge (street, city, state and ZIP code.) 101 West Broadway, Suite 2000, San Diego, CA 92101 12. DECLARATION

I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief. 619-230-7746 Cell No. Jim McMullen, Esq. 619-813-1934 (Print/type name and title or office, if any) (signature of representative or person making charge) 619-696-7124 101 West Broadway, Suite 2000, San Diego, CA 92101 imcmullen@gordonrees.com (date) 6/ 7 /2009

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

# STATEMENT OF STANDARD PROCEDURES IN FORMAL HEARINGS HELD BEFORE THE NATIONAL LABOR RELATIONS BOARD PURSUANT TO CHARGES FILED UNDER SECTION 10(k) OF THE NATIONAL LABOR RELATIONS ACT, AS AMENDED

The hearing will be conducted before a Hearing Officer of the National Labor Relations Board.

Parties may be represented by an attorney or other representatives and present evidence relevant to the issues. (Copies of exhibits should be supplied to the Hearing Officer and other parties at the time the exhibit is offered in evidence.)

The 10(k) hearing is a nonadversary factfinding hearing and the technical rules of evidence are not controlling. The 10(k) hearing procedure shall conform, insofar as applicable, to the procedures set forth in Sections 102.64 to 102.68, inclusive, of the Rules and Regulations of the National Labor Relations Board and the parties' attention is also called to Sections 102.89 through 102.93, inclusive, of those Regulations.

An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. After the close of the hearing, one or more of the parties may wish to have corrections made in the record. All such proposed corrections, either by way of stipulation or motion, should be forwarded to the Board in Washington instead of to the Hearing Officer, inasmuch as the Hearing Officer has no power to make any rulings in connection with the case after the hearing is closed. All matter that is spoken in the hearing will be recorded rulings in connection with the case after the hearing is closed. All matter that any party wishes to make off-the-record remarks, by the official reporter while the hearing is in session. In the event that any party wishes to make off-the-record remarks, requests to make such remarks should be directed to the Hearing Officer and not to the official reporter.

Statements of reasons in support of motions or objections should be as concise as possible. Objections and exceptions may upon appropriate request be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

An original and two copies of all motions submitted during the hearing shall be served on the other parties.

The sole objective of the Hearing Officer is to ascertain the respective positions of the parties and to obtain a full and complete factual record upon which the duties under Section 10(k) of the National Labor Relations Act may be discharged by the Board. It may become necessary for the Hearing Officer to ask questions, to call witnesses, and to explore avenues with respect to matters not raised by the parties. The services of the Hearing Officer are equally at the disposal of all parties to the proceedings in developing the material evidence.

Upon the close of the hearing, the proceeding will be transferred to the Board and the Board will proceed either forthwith upon the record, or after oral argument, or the submission of briefs, or further hearing, to determine the dispute or make other disposition of the matter. Should any party desire to file a brief with the Board, eight copies thereof shall be filed with the Board at Washington, D.C., within 7 days after the close of the hearing: Provided, the notice of hearing no briefs shall be however, that in cases involving the national defense and so designated in the notice of hearing no briefs shall be however, that in cases involving the national defense, upon application for leave to file and positions: Provided further, that in cases involving the national defense, upon application for leave to file briefs expeditiously made to the Board in Washington, D.C., after the close of the hearing, the Board may for good cause shown grant such leave and thereupon specify the time for filing. Immediately upon such filing, a copy shall be served on the other parties. Proof of such service must be filed with the Board simultaneously with the briefs. Such brief shall be printed or otherwise legibly duplicated: Provided, however, that carbon copies with the briefs. Such brief shall be filed and if submitted will not be accepted. Request for extension of time in which to file a brief shall be in writing and must be received by the Board in Washington, D.C., 3 days prior to the due date with copies thereof served on the other parties. No reply brief may be filed except upon special leave of the Board.

As provided in Section 102.112 of the Board's Rules, service on all parties of a request for an extension of time shall be made in the same manner as that utilized in filing the paper with the Board; however, when filing with the Board is accomplished by personal service, the other parties shall be promptly notified of such action by telephone, followed by service of a copy by mail or telegraph.

An exhibit number may be reserved for posthearing submission of exhibits by stipulation of the parties.

Any party shall be entitled, upon request, to a reasonable period at the close of the hearing for oral argument, which shall be included in the stenographic report of the hearing. In the absence of a request, the Hearing Officer may ask for oral argument if at the close of the hearing it is believed that such arguments would be beneficial to the Board's understanding of the contentions of the parties and the issues involved.

Voluntary adjustments consistent with the policies of the Act reduce Government expenditures and promote amity in labor relations. Upon request, the Hearing Officer will afford reasonable opportunity during the hearing for discussions between the parties if adjustment of the jurisdictional dispute appears possible.

#### UNITED STATES GOVERNMENT NATIONAL LABOR RELATIONS BOARD

#### NOTICE

MACHINISTS, DISTRICT LODGE 160, LOCAL LODGE 289

Case: 19-CD-502

June 16, 2009

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end. An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing.

However, unless otherwise specifically ordered, the hearing will be held at the date, hour and place indicated. Postponements **will not be granted** unless good and sufficient grounds are shown **and** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 C.F.R. 102.16(a) or with the Division of Judges when appropriate under 29 C.F.R. 102.16(b).
- (2) Grounds must be set forth in detail;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (*listed below*), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

#### REGULAR MAIL

Lester A. Heltzer, Executive Secretary National Labor Relations Board 1099 - 14<sup>th</sup> Street, N.W., Room 11602 Washington, D.C. 20570

SSA Marine Pier 91, 2001 W. Garfield St. Seattle, WA 98119

Gordon & Rees, LLP Attn: James J. McMullen, Jr., Attorney 101 W. Broadway, Suite 2000 San Diego, CA 92101

Leonard Carder, LLP Attn: Robert S. Remar, Attorney 1188 Franklin St., Suite 201 San Francisco, CA 94109-6852

### **CERTIFIED MAIL NO.** 7006 2150 0000 7460 4655

Machinists District Lodge 160, Local Lodge 289 Attn: Don Hursey 9135 - 15<sup>th</sup> Pl. S. Seattle, WA 98108

#### REGULAR MAIL

Pacific Maritime Association Legal Department Attn: Todd C. Amidon, Sr. Counsel 555 Market Street, Third Floor San Francisco, CA 94105-5801

ILWU 1188 Franklin St., Suite 400 San Francisco, CA 94109-6852